

The Ontario Weekly Notes

VOL. XI. TORONTO, NOVEMBER 17, 1916. No. 10

APPELLATE DIVISION.

SECOND DIVISIONAL COURT.

NOVEMBER 3RD, 1916.

*GORDON v. GORDON.

*Husband and Wife—Separation Deed—Construction—Allowance to
Wife—Cesser—Act Entitling Husband to Divorce—Adultery.*

Appeal by the defendant from the judgment of DENTON, Jun. Co.C.J., in an action in the County Court of the County of York, in favour of the plaintiff for the recovery of money payable under a separation deed, the plaintiff being the wife of the defendant.

The only defence set up or relied upon was, that the plaintiff was guilty of adultery after the deed was made and before the money sued for became due. For the purposes of the action, such guilt was admitted.

The deed provided that "in case the said marriage should at any time hereafter be dissolved upon the petition of" the husband, "or in case" the wife "shall be guilty of any act which would entitle" the husband "to obtain a dissolution of the said marriage, then and in such case the said annual payment and allowance shall cease and determine and these presents shall become void."

The appeal was heard by MEREDITH, C.J.C.P., RIDDELL, LENNOX, and MASTEN, JJ.

George Wilkie, for the appellant.

J. E. Lawson, for the plaintiff, respondent.

MEREDITH, C.J.C.P., delivering judgment at the conclusion of the argument, said that the Court was asked to hold that the

*This case and all others so marked to be reported in the Ontario Law Reports.